

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Public Health

Division of Maternal and Child Health

(Amendment)

911 KAR 2:170. Notice of Action and Administrative Appeal

RELATES TO: KRS 200.650-676, 20 U.S.C. 1471-1485

STATUTORY AUTHORITY: KRS Chapter 13B, 194A.050, 200.650-676

NECESSITY, FUNCTION, AND CONFORMITY: KRS 200.660 requires the Cabinet for Health and Family Services to administer funds appropriated to implement the provisions of KRS 200.650 to 200.676, to enter into contracts with service providers, and promulgate administrative regulations. The function of this administrative regulation is to establish an administrative appeal process for parents who wish to appeal a decision of the agency relating to the identification, evaluation or provision of service to a child through the program.

Section 1

Notice of provider's action shall be provided to the parent or guardian which shall include at least the following:

- (1) A description of action by the provider with explanation, including a description of

any options the provider considered and the reasons why those options were rejected;

(2) A description of each evaluation procedure, test, record report or other relevant factor the provider used as the basis for the action; and

(3) A description of the parent or guardian's right to appeal and of the parent or guardian right to inspect provider records pertaining to the decision which is the subject of the notice of action.

Section 2. At any time following receipt of a written notification by the provider relating to the identification, evaluation or provision of service to a child or anytime following a refusal by the provider to initiate a change in the identification, evaluation or service provided to a child, a parent or guardian may file an appeal with the Cabinet for Health and Family Services.

Section 3. Upon receipt of an appeal, the cabinet shall issue within five (5) days a notice of hearing conforming in content to the requirements of KRS 13B.050.

Section 4. (1) An administrative hearing shall be conducted within fifteen (15) days of receipt of an appeal by an impartial hearing officer appointed by the secretary of the cabinet.

(2) The hearing shall be conducted in accordance with the requirements of KRS 13B.080 and 13B.090. A recommended decision conforming in content to the requirements of KRS 13B.110 shall be forwarded to the appellant and the cabinet within ten (10) days of the administrative hearing.

(3) The recommendation of the hearing officer shall be forwarded to the secretary of the cabinet. All parties to the appeal shall have five (5) days to file written exceptions to the recommended decision. A final decision on the recommendation shall be made no

later than forty-five (45) days following receipt of the appeal.

